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In re Application of :
BARKER et al. :
Application No.: 09/980,912 :
PCT No.: PCT/GB00/01732 :
Int. Filing Date: 05 May 2000 :
Priority Date: 08 May 1999 :
Attorney Docket No.: 2A0120.USD :
For: DOSING VALVE WITH FLOW RATE
SENSOR FOR A BEVERAGE
DISPENSER

DECISION ON
PETITION

This is in response to the communication filed 30 June 2003 which is being treated as a renewed petition under 37 CFR 1.137(b) and 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 05 May 2000, applicants filed international application PCT/GB00/01732, which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 16 November 2000. A Demand for international preliminary examination electing the United States was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 November 2001.

On 08 November 2001, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; a preliminary amendment, and an unexecuted declaration.

On 06 February 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 15 November 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 06 February 2002 within the time period set therein.

In a decision dated 07 May 2003, applicants' petitions under 37 CFR 1.137(b) and 37 CFR 1.137(b) was dismissed without prejudice

On 30 June 2003, applicants filed the present petition.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Items (1) - (4) have been satisfied.

Declaration of the Inventors under 37 CFR 1.42

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed on 30 June 2003 is executed by Linda Barker as the "executor" of the deceased inventor, Paul Barker. The present declaration taken in combination with the previously submitted declaration fulfills the requirements of 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 30 June 2003.

CONCLUSION

The petition under 37 CFR 1.137(b) is GRANTED and the papers filed under 37 CFR 1.42 are ACCEPTED.

The application has an international filing date of 05 May 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **30 June 2003**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.



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